

# **ICR BURDEN ESTIMATE METHODOLOGY**

*January 20, 1998*

## **Introduction**

40 CFR Parts 260 and 261 contain provisions that allow regulated entities to apply for petitions, variances, exclusions, and exemptions from various RCRA requirements. This application process entails some amount of burden that is shouldered by the regulated community and EPA staff. In accordance with the 1995 Paperwork Reduction Act (as amended), EPA must estimate respondent and Agency burden associated with all regulatory activities, including the petitions, variances, exclusions, and exemptions allowed for in 40 CFR Parts 260 and 261. Once burden estimates are developed, EPA submits an Information Collection Request (ICR) request to the Office of Management and Budget (OMB) for approval. This document describes the methodology for updating burden estimates for the renewal of the ICR covering the regulatory activities cited above.

Respondent and EPA burden estimates for these provisions were developed using the results of the interviews described in this report. Data was collected from EPA staff at Region 5, Region 6, Region 10, SAIC (EPA contractor), and General Motors. The remainder of this report identifies the individuals who were contacted and summarizes the results of these interviews. All interviews were conducted between January 7 - 16, 1998.

## **Contact List and Interview Summaries**

Dan Patulski, U.S. EPA Region 5 (312-886-0656), was contacted to determine if EPA Region 5 received documents for requests for exemptions under 40 CFR Part 261.35 (deletion of certain hazardous waste codes following equipment cleaning and replacement). He indicated that all of the plans would be maintained at the facilities, but he did not have any ideas or methods of estimating how many facilities would use the exemption.

Hak Cho, U.S. EPA Region 5 (312-886-0988), reported that all exemptions and many of the variances are handled by the states in this region. However, there are very few variances requested. Mr. Cho was aware of one LDR variance that was handled jointly by EPA and the state.

Judy Kleiman, U.S. EPA Region 5 (312-886-1482), is the delisting petition coordinator for Region 5. Currently, there are 8 petitions and 4 sampling plans under review. One petition was approved in October, 1997. She anticipates there may be a 50% increase in petitions. She is contacted at least six times a year with new petition inquiries. She estimates it takes a facility approximately 2,000 hours to prepare a petition, and EPA requires approximately 1,000 hours to review the petition. Where contractor support is utilized, Ms. Kleiman estimates about 60-70% of the technical time is used by the contractor, with the balance used by EPA. Most of her hours are spent entering information into databases and holding meetings, and estimated clerical hours range from 5 to 100 hours with an average of 5 to 10 hours. Although some petitions are

reviewed relatively quickly, Ms. Kleiman indicated there are some petitions that have been under review for several years. She noted that with additional resources they would be able to process petitions faster.

Jenny Utz, SAIC (EPA Contractor), is responsible for most of the contractor portion of petition reviews in Region 5. She provided a breakdown by task and discipline of the number of contractor hours spent on a typical petition. It is estimated that approximately 200 to 400 hours are spent per petition.

Bill Gallagher, U.S. EPA Region 6 (214-665-6775), is the delisting petition coordinator in Region 6. Region 6 receives approximately 5 calls per month requesting information on petitions. He estimates that reviewing the guidance document provided by the region takes about 4 hours (about 75% technical staff review and 25% legal staff review). Of the petitions submitted, approximately 75% are approved and 25% are withdrawn. To date, no petitions have been rejected. He does not anticipate any change in the number of petitions being submitted and processed. Mr. Gallagher estimates the total time to review the sampling plan and petition is approximately 76 days (approximately 600 hours). He provided additional information on the distribution of hours by discipline and task. Region 6 does not request additional information; the facility has one opportunity to provide all information. The time in Region 6 from petition review to proposal in the Federal Register is approximately 90 days. Additional time is required to review the sampling plan. The total time frame for petition review: approximately 6 months. All exemptions and variances are handled by the states.

Alma Moreno-Lahm, U.S. EPA Region 7 (913-551-7380), checked with several other staff and identified only one variance petition reviewed by Region 7 (Ames Lab, IA6890008950, conducted a treatability test for certain mixed wastes in late 1995/early 1996, as part of its Federal Facilities Compliance Act, Compliance Agreement/Compliance Order for mixed wastes generated at the site, pursuant to 40 CFR 261.4(e) and (f). CA/CO dated 2/27/96, docket # VII-96-H-0001).

Lynn Slugante, U.S. EPA Region 7 (913-551-7883), was aware of five solid waste variances in the past two years. These were for facilities that were in authorized states. EPA received and reviewed the variances.

John McCarroll, U.S. EPA Region 9 (415-744-2064), recommended contacting Jeff Staudinger 744-2032. Exemptions are handled by the states, and he was aware of only one treatability exemption. Mr. Staudinger could not be reached.

Kurt Eilo, U.S. EPA Region 10 (907-271-3412), is in the Alaska operations office. Mr. Eilo is not aware of any facilities using exemptions or likely to use them except for one or two oil refineries that may be using wastewater exemptions and many facilities that may be using the sampling exemption. To get an estimate of total facilities that might be sampling in a year he suggested using a total number of facilities from RCRIS. There are no RCRA sites performing treatability studies and potentially only a few Superfund sites (one, but that was prior to 1995).

Dave Croxton, U.S. EPA Region 10 (206-553-1716), was not aware of any variances that

had been issued by Region 10.

Dave Bartus, U.S. EPA Region 10 (206-553-2804), said no delisting petitions are being reviewed in the region. Mr. Bartus anticipated that this may change and the region may begin encouraging use of the delisting process.

Todd Williams, General Motors (313-556-7608), stated that GM recently had a delisting petition approved in the Federal Register. They are currently working on additional delisting petitions for six facilities. Since their delisting petition for the Orion facility was recently approved, he anticipated that other facilities (such as Ford and Chrysler) will begin to submit delisting petitions for their facilities with similar operations. In response to a request to estimate respondent burden for a delisting petition, he explained that if a sampling plan is not reviewed prior to submitting a delisting petition the process takes approximately four months to prepare the petition plus an additional 20 months for decision (approximately two years). If the sampling plan is reviewed prior to sampling it takes approximately 3 years. Some of the costs associated with delisting petitions include:

- sampling and analysis plan (includes preparation/research for the petition), \$12,000
- sampling (performed by a contractor and includes equipment rental), \$1,000
- sample analysis, \$15,000 - \$40,000 (typical cost: \$20,000)
- independent (third party) data validation, \$3,500
- petition preparation, \$6,750 plus 8 hours legal and 8 hours technical
- project management, \$2,000

Petition costs total about \$60,000. Since GM is large and doing multiple petitions their costs are probably less than many other facilities. Mr. Williams estimates that they save about 30% on analytical costs since they can contract with labs at a discounted rate.

### **Application of Collected Information in the ICR**

As there have been no changes in the regulatory requirements, information from the previous ICR was used as a baseline for this ICR renewal. The CFR and Federal Register were reviewed to identify any other changes that might affect burden. This ICR renewal differs slightly from the previous ICR in that detailed descriptions of the regulations were edited to more accurately reflect what the regulation stated. Most of the changes were associated with the exemptions provisions. These changes also affected a few items on the burden summary tables.

For all categories, if no petition, variance, or exemption was identified, it was assumed that at least one respondent used the category and estimated hours were not changed from the previous ICR.

#### *Delisting Petitions Burden Estimates*

The distribution of hours for delisting petition review was based on the data obtained from the entities listed above. The total number of estimated hours per petition review decreased to

approximately 807 for delisting petitions, compared with approximately 864 in the previous ICR. This is reflective of the numbers provided by Regions 5 and 6 and SAIC. Region 5 estimated approximately 1,000 hours to review a petition. Region 5 also estimated SAIC used 60-70% of the total time required to review a petition (SAIC estimated 200 to 400 hours per petition). This would be approximately 670 hours total on a 400 hour review. Region 6 estimated approximately 600 hours, but does not request additional information. Region 6 has the most streamlined program at this time, and with other Regions adopting some elements of their review program, a decrease of hours from the previously estimated 864 hours is anticipated.

For the agency review portion of the tables, the “general requirements” were combined with the “equivalent methods” and “delisting” petition processes. The items were repetitive and difficult to separate.

Operation and Maintenance (O&M) costs are added to the respondent burden. Consistent with Paperwork Reduction Act policy at the time, the previous ICR did not include these costs. Based on the information from GM, the hours to prepare the delisting petition decreased since the overall cost was less than previously estimated, and much of the cost was changed to O&M costs. This reduction is due to the use of consultants to prepare the delisting petition, and perform the associated sampling. The total hours and costs were adjusted higher than those provided by GM to account for their discounted rates, and reduced costs associated with expertise and knowledge gained by preparing several petitions. Costs were increased by 30% from the numbers provided by GM. As facilities and EPA gain more experience with delisting petitions, it is anticipated that the overall burden to both the respondents and EPA should decrease.

The total number of delisting petitions was assumed to be 15. This increase is a likely scenario in the near future based on data provided by Region 5, Region 10, and GM. It is also consistent with the previous ICR's estimates.

### *Variances and Exemptions*

Variances and exemptions were only evaluated for Alaska and Iowa since authorized states issue variances and exemptions without federal involvement. Based on the above interviews, EPA does not appear to be handling many of these requests. The only variances identified were in Region 7 for authorized states. Five solid waste variances in the past two years were identified. Based on that, the total number of variances requested is expected to increase. The most likely exemptions are 1 or 2 wastewater exemptions for oil refineries in Alaska.

The number of exemptions for samples also changed. The total number of facilities in RCRIS for Alaska and Iowa is 5,501. It is assumed that approximately 10% of the facilities (55 facilities) will utilize the exclusion for shipment of samples regulated by DOT or the US Postal Service.

Respondent burden hours did not change significantly from the previous ICR. O&M and capital costs were added to the respondents burden to reflect paperwork activities, and in the case of certain hazardous waste exclusions, include sampling costs. The only changes to the EPA burden are associated with exemptions that were changed following review of the previous ICR.

However, the regulations only require a demonstration or notice by the facility that would be filed but not reviewed.